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March 2, 1956

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CONCORD, N.H.

Mr. Frederick N. Clarke
Commissioner of Motor Vehicles
State House Annex
Concord, New Hampshire

Dear Mr. Clarke:

Your inquiry of February 24, 1956, requesting review of RSA 260:52, Use of Motor Vehicles, Trailers, Semi-Trailers and Tractors, as to whether or not this section authorizes a dealer to furnish an individual whose car is being repaired by the dealer, with an automobile carrying dealer's registration, the dealer charging the customer a daily fee for use of the motor vehicle while the customer's damaged vehicle is being repaired, I advise as follows:

It is my opinion that such permitting of dealer's vehicle to be used for a fee for the convenience of the customer whose car is being repaired falls within the exception of "service in connection with his motor vehicle, trailer, semi-trailer or tractor business."

It is noted that similar exception is found in RSA 260:59.

It is noted also that this exception is not found in RSA 260:66, 68 and 69 (repair man).

The present statute enacted in 1947 made no substantial change other than to deny the use of motor vehicles, trailers, semi-trailers or tractors designed for transportation of freight or merchandise for the dealer's pleasure purposes and to add trailers, semi-trailers or tractors to the general classification of motor vehicles.

Frederick N. Clarke -- 2.

March 2, 1956

The previous enactment, Laws of 1921, chapter 119, section 4, authorized a dealer registered under dealer's registration to use his motor vehicles "for renting or pleasure purposes" and provided only that motor vehicles used for the transportation for freight or merchandise should not be used for other than demonstration purposes or for service in connection with said dealer's motor vehicle business.

Laws of 1911, chapter 133, section 4, the next previous enactment imposed no limitation of use.

The present restriction upon renting appears only to deny the use of dealer's plates for use on rented automobiles not rented under the circumstances of service in connection with the general motor vehicle business of the dealer. In other words, use of dealer's plates on rental vehicles by one who is solely in the rental business and not in the automobile sales and service business is not authorized.

It appears to me that the Legislature has recognized an existing custom and has limited it to the situation described by you.

There is an interesting corollary to your problem, however, and that is this: If a garage has a liability policy which limits coverage to those operating upon the dealer's business it does not appear that this coverage necessarily extends to the bailee or person who merely operates with knowledge or permission of the dealer. Under such circumstances, one who is required to furnish financial responsibility may find himself operating an uninsured vehicle.

Very truly yours,

George F. Nelson
Assistant Attorney General

GFN:W